

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BARRY KELLY, et al.,
Plaintiffs,

v.

PUGET SOUND COMMERCE CENTER,
INC., et al.,
Defendants.

Case No. [11-cv-03240-VC](#)

**ORDER RE DR. HORN'S EXPERT
TESTIMONY**

In briefing the question whether Dr. Horn should be permitted to testify about the relationship between Mr. Kelly's treatment and his kidney disease, the parties should address the significance of the following exchange, which took place on May 13, 2015:

THE COURT: And what -- you want to give me just a brief synopsis of the critical care testimony that Horn will provide? Is Horn going to testify that the kidney problems were caused or exacerbated by the chemo?

MR. PURCELL: No, that's Ganzhorn. In other words, as a subsequent matter he wasn't evaluating in his Rule 26 report, so that necessitated Dr. Ganzhorn to look at that.

Dr. Horn will talk about mesothelioma as a clinical doctor and end-stage disease.

In addition to discussing the relevance of this exchange to the question whether Dr. Horn should be permitted to testify about the relationship between Mr. Kelly's chemotherapy treatment and his kidney disease, the parties should address in their briefs whether, and if so how much, Mr. Purcell should be sanctioned for his conduct in connection with this issue.

IT IS SO ORDERED.

Dated: May 15, 2015



VINCE CHHABRIA
United States District Judge